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Final Regulation Agency Background Document

Agency name	Board for Contractors
Virginia Administrative Code (VAC) Chapter citation(s)	18 VAC 50 - 22
VAC Chapter title(s)	Board for Contractors Regulations
Action title	SDS Specialty Split
Date this document prepared	November 3, 2021

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Board for Contractors seeks to take the existing Sewage Disposal System Contracting specialty in 18 VAC 50-22-30 and divide it into two new specialties: alternative sewage disposal system contracting and conventional sewage disposal system contracting. This will align the licensing of the contractor licenses for these specialties, issued by the Board for Contractors, with the individual licenses of the specialties issued by the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

There are no acronyms or technical definitions used in this form that are not specifically identified.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

At its meeting on Tuesday, October 26, 2021 the Board for Contractors adopted these proposed regulations as final.

Mandate and Impetus

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.

§ 54.1-2301 A of the Code of Virginia and 18 VAC 160-40 of the Virginia Administrative Code provide the authority and outline requirements for the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals to issue license to individuals in the categories of alternative onsite sewage system installer and conventional onsite sewage system installer. Additionally, the VAC defines the two types of systems. The Board for Contractors currently issues licenses to contractors with the Sewage Disposal System Contracting specialty (SDS), which does not delineate alternative or conventional systems. The Qualified Individual of a licensed contractor holding the SDS specialty must hold an installer license (either alternative or conventional) in order for the company to qualify for the specialty on its license.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

§ 54.1-1102 A of the Code of Virginia provides the Board for Contractors with the authority to promulgate regulations not inconsistent with the statute necessary for the licensure of contractors.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals (WWWOSSP) currently issues journeyman and master level licenses to individuals that install conventional and alternative onsite sewage systems, which are defined in the regulations. The two types of systems are inherently different and require a different skill level to install. The Board for Contractors currently issues licenses to contractor businesses that includes the sewage disposal system contracting specialty (SDS). This specialty does not identify whether the contractor is licensed to install conventional or alternative systems, which can be confusing to consumers. Additionally, in order to obtain the SDS specialty on its license a contractor business must have a Qualified Individual who holds either a conventional or alternative installer license from WWWOSSP with both being acceptable. Since the Board for Contractors does not differentiate between the two types of systems with the current licensing scheme, a contractor that is not properly licensed with WWWOSSP to install an alternative system would not be in violation of the Board for Contractors Regulations for working outside the scope of their license. This is not only confusing to consumers but could lead to harm from both a health standpoint and an economic standpoint. The proposed amendments to these regulations would split the current specialty into two categories that match the current licensing requirements of WWWOSSP. This would eliminate confusion regarding the type of system installation the license allowed and could eliminate harm done by improperly licensed contractors.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

18 VAC 50-22-30 would be amended to eliminate the definition of Sewage Disposal System Contracting and two new specialties would be created: Alternative Sewage Disposal System Contracting and Conventional Sewage Disposal System Contracting. The requirements sections for the license classes (18 VAC 50-22-40, 18 VAC 50-22-50, and 18 VAC 50-22-60) would also be amended further clarify the requirements for the Qualified Individual.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The primary advantage for the public is that contractors who are not properly licensed with WWWOSSP would not hold a specialty they are not licensed to perform. Individuals and companies that do not meet the qualifications would be required to obtain the appropriate license from WWWOSSP, master conventional or alternative installer license, and then add the corresponding specialty to the contractor license.

The only disadvantage to the public, private citizens, or businesses is the fact that individuals or businesses may be required to meet additional eligibility criteria with the WWWOSSP Board if both specialties are required.

This regulatory change will align the two boards, Board for Contractors and WWWOSSP.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are currently no Federal requirements for licensure or certification to install a conventional or alternative sewage disposal system.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

Other State Agencies Particularly Affected

No other State agencies are particularly affected.

Localities Particularly Affected

No other localities are particularly affected.

Other Entities Particularly Affected

No other entities are particularly affected.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

Commenter	Comment	Agency response
N/A	No Public Comment Received	N/A

Detail of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-	New chapter-section	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
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section number	number, if applicable			
N/A	No Changes since previous stage.	No Changes since previous stage.	No Changes since previous stage.	No Changes since previous stage.

Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
18 VAC 50-22-30		<p>"Sewage disposal systems contracting" (Abbr: SDS) means the service that provides for the installation, repair, improvement, or removal of septic tanks, septic systems, and other onsite sewage disposal systems annexed to real property.</p>	<p>The current Sewage disposal systems contracting (SDS) specialty definition is being split into two, Alternative sewage disposal system contracting (ADS) and Conventional sewage disposal system contracting (CDS).</p> <p>"Alternative sewage disposal system contracting" (Abbr: ADS) means the service that provides for the installation, repair, improvement, or removal of a treatment works that is not a conventional onsite sewage system and does not result in a point source discharge. No other classification or specialty service provides this function.</p> <p>"Conventional sewage disposal system contracting" (CDS) means the service that provides for the installation, repair, improvement, or removal of a treatment works consisting of one or more septic tanks with gravity, pumped, or siphoned conveyance to a gravity distributed subsurface drainfield. No other classification or specialty provides for this function.</p>

<p>18 VAC 50-22- 40</p>		<p>None</p>	<p>Clarifying the requirements to obtain a Class C license by outlining 18 VAC 50-22-40 B 4 e to state, "Has obtained, pursuant to the Onsite Sewage System Professionals Licensing Regulations, a master conventional onsite sewage system installer license for Conventional Sewage Disposal System Contracting and a master alternative onsite sewage system installer license for Alternative Sewage Disposal System Contracting".</p>
<p>18 VAC 50-22- 50</p>		<p>None</p>	<p>Clarifying the requirements to obtain a Class B license by outlining 18 VAC 50-22-50 C 4 e to state, "Has obtained, pursuant to the Onsite Sewage System Professionals Licensing Regulations, a master conventional onsite sewage system installer license for Conventional Sewage Disposal System Contracting and a master alternative onsite sewage system installer license for Alternative Sewage Disposal System Contracting".</p>
<p>18 VAC 50-22- 60</p>		<p>None</p>	<p>Clarifying the requirements to obtain a Class A license by outlining 18 VAC 50-22-50 C 4 e to state, "Has obtained, pursuant to the Onsite Sewage System Professionals Licensing Regulations, a master conventional onsite sewage system installer license for Conventional Sewage Disposal System Contracting and a master alternative onsite sewage system installer license for Alternative Sewage Disposal System Contracting".</p>